

# Notice of Allowability

Application No.

10/082,544

Examiner

Frank I Choi

Applicant(s)

OLESON ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Examiner's Amendment/Reasons for Allowance attached hereto.
2. ☒ The allowed claim(s) is/are 1,7--11[renumb. 2-6], 13-15[renumb. 7-9],26[renumb. 10],34--61[renumb. 11-38],66[renumb. 39],67[renumb. 40],62[renumb. 41],68[renumb. 42],69[renumb. 43],63-65[renumb. 44-46],70-80[renumb. 47-57].
3. ☒ The drawings filed on 20 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.
  8. ☒ A corrected APPLICATION DATA SHEET (ADS) must be submitted. Note the attached EXAMINER'S AMENDMENT/REASONS FOR ALLOWANCE which gives reasons why the ADS is deficient.

## Attachment(s)

- |                                                                                                                     |                                                                                        |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____.                                               |



Art Unit: 1616

**EXAMINER'S AMENDMENT/REASONS FOR ALLOWANCE**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Timothy J. Douros and Jill M.N. Mandelblatt on July 1, 2004.

The application has been amended as follows:

**Claims 47, 63, 78, line 2 of each:** delete "3 days" and insert in place thereof the following:

-- 2 days --.

**Claim 51, line 1:** delete "claim 34" and insert in place thereof the following:

-- claim 50 --.

**Claim 67, line 1:** delete "claim 68" and insert in place thereof the following:

-- claim 61 --.

**Claim 69, line 1:** delete "claim 68" and insert in place thereof the following:

-- claim 62 --.

Examiner requests that Applicant provide a corrected Application Data Sheet (ADS), the ADS filed on 2/20/2002 indicates that Application 09/406,568 was filed on 9/25/1999. This incorrect, said Application was filed on 9/24/1999. Also, please update ADS to indicate that Application 09/406,568 is now US Patent 6,468,967.

The following is an examiner's statement of reasons for allowance:

Art Unit: 1616

As discussed with Timothy J. Douros and Jill M.N. Mandelblatt on July 1, 2004, the outstanding Office Action (mailed April 21, 2004) contains a typographical error in that claims 1, 7-11, 13-15, 26 and 34-80 are currently pending in the application, not claims 1, 7-11, 13-15, 26 and 34-63 as indicated in the Office Action. Further, it was indicated that the rejection of claims 47 and 63 under 35 U.S.C. § 112, ¶ 2 would also apply to claim 78. It was agreed that one of ordinary skill in the art would understand that when the dosing interval is 48 hours (*i.e.*, q 48), the second dose is administered 48 hours after the first dose. To clarify claims 47, 63 and 78 and overcome the rejection under 35 U.S.C. § 112, ¶ 2, the Examiner's Amendment above amends the claims to recite a minimum dosing period of two days. Finally it was indicated that Claims 51, 67 and 69 contained improper claim dependencies. As such, the Examiner's Amendment above corrects said claim dependencies.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### ***Conclusion***

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a flexible schedule. However, Examiner may generally be reached Monday-Friday, 8:00 am – 5:30 pm (EST), except the first Friday of the each biweek which is Examiner's normally scheduled day off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Gary Kunz, can be reached at 571-272-0887. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

FIC September 17, 2004



**S. MARK CLARDY**  
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